

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RONALD A. NIMKOFF,

Plaintiff(s),

ORDER

CV08-2856 (ADS)(WDW)

-against-

ERIC J. DOLLHAUSEN, et al.,

Defendant(s).

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WALL, Magistrate Judge:

Before the court are two motions to compel filed by the plaintiff, Ronald Nimkoff. DE[34] & [35]. The motions are denied without prejudice to renewal after the parties have made a good faith effort to resolve the various disputed issues, as required by the Federal and Local Rules.

Rule 37(a)(1) provides that when a party moves for an order compelling disclosure or discovery, he “must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.” Local Civil Rule 37.3 requires that “[p]rior to seeking judicial resolution of a discovery or non-dispositive pretrial dispute, the attorneys for the affected parties . . . shall attempt to confer in good faith in person or by telephone in an effort to resolve the dispute.” Nothing in the letter motions or the opposition thereto suggests that such a good faith effort has been made, and the level of contentiousness with which this lawsuit has been conducted supports the conclusion that the effort was not made. Moreover, the defendants suggest that the motions were premature, and some aspects of the motions may now be moot.

Thus, the court directs the parties to make a good faith effort, in person or by telephone, to resolve as many areas of dispute as they can. After they have done so, the plaintiff may, if

necessary, renew the motions.

Dated: Central Islip, New York
July 9, 2009

SO ORDERED:

/s/ William D. Wall
WILLIAM D. WALL
United States Magistrate Judge